

John Sepehri

From: Ann McGeehan
Sent: Wednesday, January 05, 2011 5:00 PM
To: 'Matt.Creel@house.state.tx.us'
Cc: John Sepehri
Subject: Memo on how the voter registration rolls are kept clean under current law.
Attachments: maintainVRfiles-2008.doc

Here is the memo we discussed this morning. Hope this is helpful to you.

Ann McGeehan
Director of Elections
Office of the Texas Secretary of State
amcgeehan@sos.state.tx.us
512-463-9871



2:13-cv-193
09/02/2014

DEF0658

exhibitsicker.com

The State of Texas



Elections Division
P.O. Box 12060
Austin, Texas 78711-2060
www.sos.state.tx.us

Phone: 512-463-5650
Fax: 512-475-2811
Dial 7-1-1 For Relay Services
(800) 252-VOTE (8683)

Phil Wilson
Secretary of State

MEMORANDUM

To: Secretary Wilson
From: Ann McGeehan, Director of Elections
Date: January 22, 2008
Re: Purging Voter Registration Files

Question Presented

This memo addresses the following questions: How are the voter registration files of this state maintained? Under what circumstances is a voter's registration purged?

Discussion

Voter Registration Officials

Voter registration files are administered at the state level by the Office of the Secretary of State ("SOS") and at the county level by the county voter registrar, who is usually the tax assessor-collector. The SOS maintains the official list of registered voters and must verify the Texas driver's license number or personal identification number of each voter registration applicant. Tex. Elec. Code Ann § 18.061 (Vernon Supp. 2007) and 42 U.S.C. § 15301. If an applicant has not been issued a Texas driver's license number, then the applicant is required to provide the last four digits of his/her social security number. If an applicant has been issued neither of these numbers, or if the SOS is unable to verify the applicant based on the number provided, then the SOS registers the individual, but flags the voter as "ID", which means that voter must present identification when they present themselves for voting.

At the county level, voter registration duties may also be performed by the county election administrator (EA), if the county has created and filled this position; or the county clerk, if the commissioners court orders this transfer of duties, following the agreement of all involved parties. Tex Elec. Code Ann. § 12.001 (Vernon Supp. 2007). Voter registration applications are received at the local level. Roughly 220 counties are "online" with the state's TEAM (Texas Election Administration Management) System. TEAM online counties enter data and manage their files directly into the official list on a real time basis. The remaining 34 "offline" counties submit data regularly to the state, but not less than every 24 hours so that the local county file and the state official file are in sync.

Individuals may register to vote in a number of ways. They may submit a completed voter registration application directly to their county voter registrar. They may also complete an

MEMORANDUM

Page 2

application at a motor vehicle agency, such as the Texas Department of Public Safety (DPS), or with a volunteer deputy voter registrar. Applications submitted at DPS or through a volunteer deputy voter registrar are delivered to the county voter registrar for review and processing.

Voter Registration Cards, Confirmation Process, Suspense List Voters

State law prescribes a variety of procedures to ensure that voter registration rolls are continuously maintained for accuracy. The procedures which inform this process include: the biennial mass mailing of renewal voter registration certificates, the voter confirmation process, and the suspense list process. These procedures are the cornerstones of ongoing state and county measures to ensure that voters reside in their county of registration.

Between November 15th and December 5th of each odd-numbered year, voter registrars issue renewal voter registration certificates to each registered voter in their county who is not on the suspense list. Id. § 14.001. The certificates are mailed to the address listed on the voter's registration application. The certificates specifically may not be forwarded, per Section 14.002 of the Texas Election Code ("the Code"). If the certificate does not reach the voter at this address because he or she has moved, the certificate is returned to the voter registrar, who then sends the voter a confirmation notice. Id. §§ 13.146, 15.051.

The confirmation notice requests that the voter confirm his or her new address within the county or confirm that he or she no longer lives in the county. The confirmation notice may be forwarded, and is sent with a response form, which is postage pre-paid and preaddressed for delivery to the voter registrar. Id. § 15.052. If the voter confirms that he or she still lives in the county, then the voter's registration is updated with the voter's new address, and a new voter registration certificate is issued. If the voter confirms that he or she no longer lives in the county, then that voter is cancelled. Id. § 16.031. If the voter does not respond to the confirmation notice within 30 days, then the voter's name is placed on the Suspense List. Id. § 15.081.

Voters whose names appear on the Suspense List are still eligible to vote in elections held in their county of registration, so long as they still reside in the county and political subdivision conducting the election. They may vote at the precinct at which they are registered (even if they no longer reside in that precinct), provided that they complete a Statement of Residence form affirming that they still reside in the county and providing their new address within the county. Id. § 15.112. Voters' names appear on the Suspense List for a period of two federal general elections. If the voter does not vote during this roughly four-year period, or does not update his or her residence address with the voter registrar, then the county voter registrar cancels the voter's registration and purges their name from the voter registration list on the November 30th following the second federal general election from the date the voter was placed on the suspense list. Id. § 16.032.

Other Texas Voter Registration Maintenance Procedures

Deaths

County voter registrars must remove deceased voters in a variety of ways. First, the local register of deaths prepares monthly abstracts of death certificates issued for decedents 18 years of age or older who were residents at the time of death. These abstracts are filed with the

MEMORANDUM

Page 3

appropriate county voter registrar promptly following their compilation each month, per Section 16.001(a) of the Code. Second, the clerk of each court having probate jurisdiction prepares monthly abstracts of each application filed with their court for probate of a will, administration of an estate, or determination of heirship. These abstracts are filed with the appropriate county voter registrar promptly following their compilation each month, per Section 16.001(b) of the Code. In addition, if a voter registrar has personal knowledge that a voter is deceased or receives a sworn statement from a close relative of a deceased voter, then the voter registrar can cancel the registration. Finally, the Bureau of Vital Statistics provides weekly updates on deceased residents of the state to the Secretary of State (SOS). SOS, in turn, periodically provides these updates to the appropriate voter registrars to assist in identifying deceased registered voters of each county. The voter registrar shall promptly cancel the voter's registration upon receipt of information regarding death, per Section 16.031 of the Code.

Judgments of Mental Incapacity

Voter registrars also maintain their voter registration rolls to remove voters who have been determined to be either totally mentally incapacitated or partially mentally incapacitated without the right to vote. The clerk of each court having the relevant jurisdiction to make such declarations prepares a monthly abstract summarizing the court's final judgments on:

- Judgments which find a person 18 years of age or older to be totally mentally incapacitated;
- Judgments which find a person 18 years of age or older to be partially mentally incapacitated without the right to vote;
- Judgments which find the mental capacity of a person 18 years of age or older to be completely restored;
- Modifying the guardianship of a person 18 years of age or older to include the right to vote.

These abstracts are filed with the appropriate voter registrar promptly following their compilation each month, per Section 16.002(b) of the Code. The county voter registrar shall promptly cancel the voter's registration upon receipt of information regarding mental incapacity, per Section 16.031 of the Code.

Felony Convictions

The Secretary of State receives information which enables the state voter registration rolls to be updated with regards to individual felony convictions. Per Section 16.003 of the Code, on each regular business day for DPS, the department prepares an abstract of each final judgment received by the department convicting a person 18 years of age or older who is a resident of the state of a felony. These abstracts are filed electronically with the SOS. The county voter registrar shall promptly cancel the voter's registration upon receipt of information regarding a felony conviction, per Section 16.031 of the Code, or may initiate an investigation of that voter, if the matching criteria which identified the voter as a potential felon resulted in what is considered to be a "weak match" (meaning some, but not all of the criteria used to identify voters matches a particular person).

MEMORANDUM

Page 4

Election Contests

Voter registrars also update their voter registration lists to remove voters who have been held by a court of law not to be qualified voters. Per Section 16.004 of the Code, no later than ten days after the judgment in an election contest becomes final, the district clerk shall prepare an abstract of the judgment, including each disqualified person's name, and file it with all appropriate voter registrars. If a voter registrar receives such an abstract that affects a registered voter in its county, it retains a copy of the abstract on file with the affected voter's registration application. *Id.*, §16.005.

Voting Activity

Voter registrars are also privy to the updated address information provided by voters to election workers at their local polling place. When election workers begin qualifying a voter during early voting or on election day, they are instructed to inquire whether the voter has moved. If not, they proceed in qualifying the voter accordingly. If the voter indicates that he or she has moved, he or she must complete a Statement of Residence form to provide his or her new address before continuing the qualification process. These completed Statement of Residence forms are provided to the voter registrar following the election and used to update the necessary voter files. This process combines the voter's conduct of voting with the update of his or her information on the county level for future correspondence and elections.

Also, per Section 16.031(a)(4) and (a)(5) of the Code, a voter registrar shall cancel a voter's registration if they obtain notice that the voter has applied for a limited ballot in another county, or notice from a voter registration official in another state that the voter has registered to vote in another state.

Duplicate Registration Information

The SOS has maintained the official list of registered voters through TEAM since January 1, 2007. Pursuant to the new workflow in a single statewide list, the SOS automatically cancels duplicate registrations when a strong match occurs between voters. For example, if a voter moves from Harris County to Travis County, the SOS will cancel that voter in Harris County if a strong match occurs between the two voters. A strong match is a match on:

Last Name/Former Name, First Name and TDL **OR**
 Last Name/Former Name, First Name and 9 digit SSN **OR**
 Last Name/Former Name, First Name, 4 digit SSN and DOB

Potential duplicate voter registrations are identified by the SOS when there is no available driver's license or social security number. In the case of a weak match, the SOS sends the county voter registrars the data, and then the county voter registrars must send the voter a confirmation notice and response form. *Id.* § 16.031(a)(6). If the voter does not respond to the confirmation notice, then the voter's name is placed on the Suspense list.

Jury Wheel Information, Citizenship

Per Section 62.113 of the Texas Government Code, the clerk of each court with the authority to summon a jury pool is responsible for maintaining a list of the name and address of each person who is excused or disqualified from jury service because he or she is not a citizen of the United States. On the third business day of each month, the clerk shall send a copy of each such list to

MEMORANDUM

Page 5

the voter registrar of the county. Per Section 16.0332 of the Code, after the voter registrar receives this list, they shall deliver to each registered voter on the list a written notice requiring the voter to submit proof of United States citizenship. Proof of citizenship may be in the form of: certified copy of voter's birth certificate, United States passport, certificate of naturalization, or any other form prescribed by SOS. The notice is to be delivered via forwardable mail to the mailing address on the voter's voter registration application. The registrar shall retain a copy of the notice mailed to the voter, and any proof of citizenship received from the voter, on file with the voter's voter registration application. If a voter fails to submit proof of citizenship within 30 days, the registrar shall cancel the voter's registration.

Per Section 62.114 of the Texas Government Code, the clerk of each court with the authority to summon a jury pool is responsible for maintaining a list of the names and addresses of each person who is excused or disqualified from jury service because he or she is not a resident of the county. On the third business day of each month, the clerk shall send a copy of this list to the voter registrar of the county. Upon receiving this list, the voter registrar shall notify each person on the list that he or she is being placed on the suspense list, due to his or her disqualification from jury service for nonresidence in the county. The notice must include instructions on how the voter may be removed from the suspense list and restored to active voter status.

Challenge Procedures for Voter Registration

The voter registrar or any registered voter in the county may challenge the voter registration of another voter if they have reason to believe that the voter is not eligible to vote in the county. Tex Elec. Code Ann. §§ 16.033, 16.091 (Vernon Supp. 2008). If the voter registrar initiates the challenge procedure based on their belief that the voter is not eligible, they must send the voter a written notice indicating that the voter's registration is being investigated. Id. § 16.033.

If another registered voter of the county initiates a challenge procedure based on the grounds of residence, the voter registrar must send a confirmation notice to the voter. Hearings are not permitted for voter registration challenges based on residence. Id. §§ 16.0921, 16.093. If the voter does not respond, then the voter's name is placed on the Suspense List, and the voter's name is purged after the expiration of two federal general elections.~~the four-year period.~~ Id. § 16.0921.

If another registered voter of the county initiates a challenge procedure based on grounds other than residence, the voter registrar shall schedule a hearing on the challenge, to be conducted no later than 20 days after the challenging voter initiates the challenge by filing a sworn statement. Id. § 16.093. The voter shall be provided with written notice of the hearing which contains the date, time and location of the hearing, a brief explanation of the voter's right to appeal the registrar's decision, and a copy of the sworn statement of the grounds for the challenge. Id. § 16.094. A determination shall be made by the registrar promptly after the hearing, and the decision must be issued in writing. Id. § 16.095.

Conclusion

The Texas Election Code provides for a variety of procedures to be conducted on the state and local levels to ensure the continuous update of information affecting voter registration status, to

MEMORANDUM

Page 6

enable consistent and accurate maintenance of state voter registration rolls. As ever, the safety and efficacy of voting in Texas remain our paramount concern.

~~doc/A-FinalMemos-Letters/2008/maintainVRfiles-2008~~